

REMARKS

Obviousness-Type Double Patenting

In the Office Action dated May 28, 2008, the Examiner has rejected all the elected claims (i.e., claims 1 to 32 and 37) under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the two U.S. Patents, namely, US 6,689,076 and US 6,269,500.

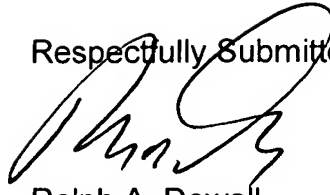
To be responsive to this obviousness-type double patenting rejection and to expedite the prosecution of the present application, Applicant hereby submits a terminal disclaimer with regard to the terminal part of the life time of a patent granted on this application which would extend beyond the expiration date of the full statutory term of each of the cited patents, US 6,689,076 and US 6,269,500. These two cited patents and the present application are commonly owned by SOMAWAVE INC. , for which assignments have been recorded.

It is respectfully submitted that the timely filing of the terminal disclaimer has rendered the rejection moot, and therefore claims 1 to 32 and 37 should be deemed as allowable.

An earnest effort has been made to place this application in condition for allowance which action is respectfully solicited.

Should the Examiner have any questions regarding the allowability of the claims with respect to the art, it would be appreciated if the Examiner would contact the undersigned attorney-of-record at the telephone number shown below for further expediting the prosecution of the application.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read 'R. Dowell', written over the printed name.

Ralph A. Dowell
Reg. No. 26,868

Date: 10/24/2008

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